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April 26, 2007

Ruth Heilizer, Esq.
Federal Election Commission
999 E Street NW
Washington, DC 20463

Re: MUR 5785

Dear Ms. Heilizer:

My firm is counsel to James E. Pederson, Pederson 2006 ("the Committee"), and Carter Olson as Treasurer ("Respondents"). I write in response to the Federal Election Commission's finding on March 6, 2007 that there is reason to believe that Respondents violated 2 § U.S.C. 434(a)(6)(B)(iii), (iv) [REDACTED] submitted by the Office of General Counsel for Respondents' consideration on March 22, 2007.

The facts are not in dispute. On March 31, 2006, Mr. Pederson contributed \$2,000,000 to the Committee; this contribution was in excess of twice the threshold amount for Arizona senatorial candidates, and triggered an obligation to file a Form 10 within 24 hours of the expenditure with the Commission, the Secretary of the Senate, and to each opposing candidate; as Mr. Pederson was unopposed for nomination from the Democratic Party, there were no opposing candidates to receive notifications. 2 U.S.C. § 434(a)(6)(B)(iii); 11 C.F.R. § 400.21. This initial Form 10 was filed six days late, on April 7, 2006.¹ On June 30, 2006, Mr. Pederson expended an additional \$275,00 in personal funds on his campaign. The related Form 10 was filed three days late, on July 4, 2006.

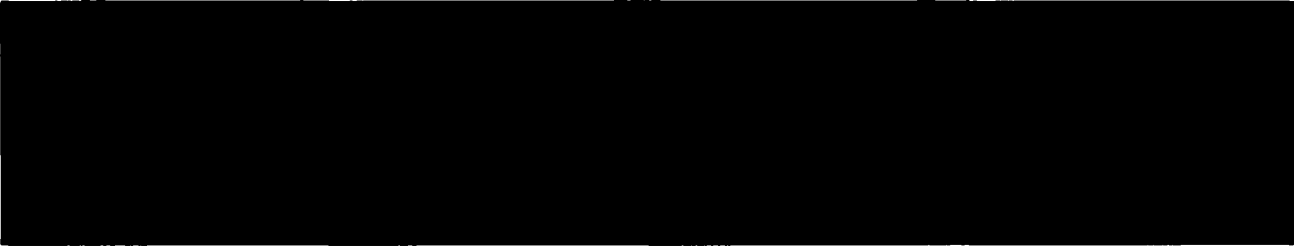
There is no allegation that these late filings were the result of anything but innocent mistakes. As the previously submitted affidavit from Darryl Tattre makes clear, the first late filing was due to an erroneous belief by the Committee staff that the requirement to file the initial Form 10

¹ The Factual and Legal Analysis correctly notes that this initial Form 10 was filed six days late, and the public record confirms that it was filed on April 7, 2006. [REDACTED]

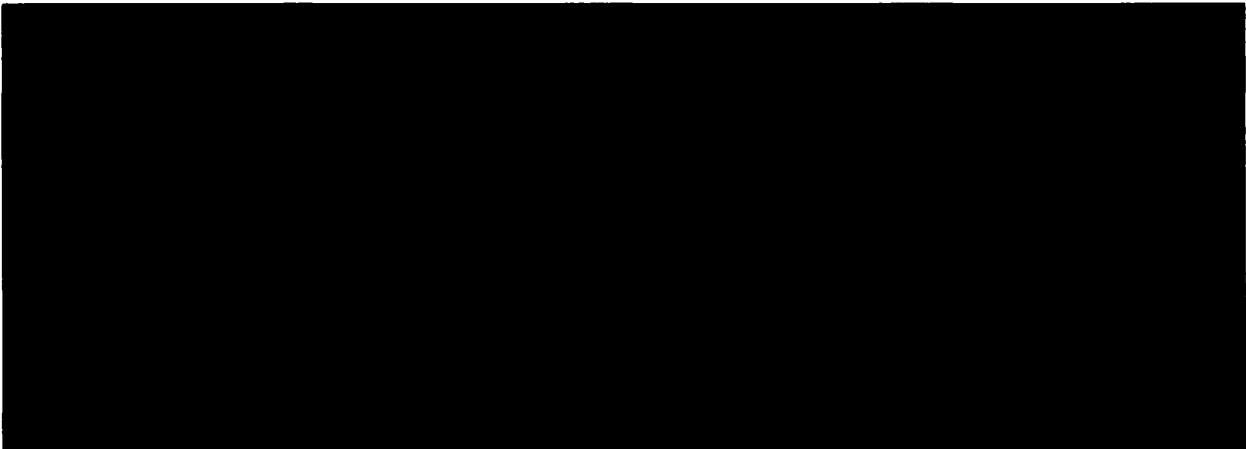
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was triggered by the expenditure of Mr. Pederson's personal funds by the Committee, not the contribution of funds to the Committee. The second late filing was due to a miscommunication among Committee staff, exacerbated by the July 4th weekend. Moreover, as Mr. Pederson was unopposed in this election, no candidates were prejudiced or disadvantaged.



The Complaint alleged only a violation of 2 U.S.C. § 434(a), and the Commission only found reason to believe that Respondents violated § 434(a); moreover, there are no facts that indicate that the failure to timely file Forms 10 was due to anything other than mistake. As a result, the clear text of the statutes and regulations governing the administrative fine program indicate that this matter should have been processed under Subpart B of Part 111. See 2 U.S.C. § 437g(a)(4)(C); 11 C.F.R. §§ 111.30, .31(b).



As this matter involved only violations of the reporting requirements of 2 U.S.C. § 434(a), and there is no allegation that they were anything other than routine late filings, it should have proceeded under the administrative fine program. There is no basis for the Commission to demand a larger fine than that dictated by the administrative fine schedule. Not only would such a demand be arbitrary, capricious, and an abuse of discretion, see 5 U.S.C. § 706(2)(A), but it would also be a violation of the Excessive Fines Clause of the United States Constitution. See U.S. CONST. amend. VIII.

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[REDACTED]

[REDACTED] I look
forward to hearing from you.

Very truly yours,



Marc E. Elias
Counsel to Jim Pederson, Pederson 2006, & Carter Olsen as Treasurer